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| 10/771,914 | 02/04/2004 | Gaston Glock | HPBC C-95A | 3481 |
| 23474 | 7590 | 05/03/2005 | EXAMINER | |
| FLYNN THIEL BOUTELL & TANIS, P.C. | | | CHAMBERS, TROY | |
| 2026 RAMBLING ROAD | | | ART UNIT | |
| KALAMAZOO, MI 49008-1699 | | | PAPER NUMBER | |
| | | | 3641 | |

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | | |
|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/771,914 | | GLOCK, GASTON | |
| | Examiner | | Art Unit | |
| | Troy Chambers | | 3641 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. The restriction requirement mailed 12/06/04 has been withdrawn in view of applicant's arguments. Claims 7-28 are pending.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the identification unit having a transmitting antenna (claim 20), the receiver with a receiving antenna (claim 20) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the

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applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 7 is objected to because of the following informalities: "inactivating the weapon" on page 4, should be amended to "deactivating the weapon" to maintain consistency with the specification and subsequent claims. Appropriate correction is required.

3. Claims 15 and 25 are objected to because of the following informalities: claims 15 and 25 should be amended to recite "ultrasound" rather than "ultrasonic" to remain consistent with the specification. Appropriate correction is required.

4. Claims 18 and 19 are objected to because of the following informalities: the applicant should indicate at what point the subject matter of claims 18 and 19 takes place relative to the list of steps performed in claim 7. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 7-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the applicant has amended claim 7 to recite "a processor attached to the weapon to **generate a received signal**". There appears to be no support for this limitation in the specification. Because claim 7 has been amended to include this subject matter, the claims are deemed to include new matter.

8. Claims 20 and 28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 20 and 28 recites "a transmitting antenna connected to the transmitter and an identification device" and "a receiver with a receiving antenna". There appears to be no support for this limitation in the specification. Because claims 20 and 28 have been amended to include this subject matter, the claims are deemed to include new matter.

9. Claims 20 and 28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed,

had possession of the claimed invention. Claims 20 and 28 require a module being free from a transmitter. While the applicant is allowed to use negative limitations in claims, any negative limitation or exclusionary proviso must have basis in the original disclosure. The Examiner can find no reference in the specification in which a transmitter is expressly excluded from the module on the gun.

10. Claim 20 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, claim 20 required the "maintaining of the weapon in the active state" when a received signal is at or above a minimum strength. The claim goes on to require that the signal be one or more of "1) the activation code signal, 2) the uncoded signal, and 3) another signal from another source". However, the specification clearly discloses that only the continuous (or intermittent) uncoded signal 19 is monitored for its signal strength. The activation code signal merely places the weapon in the ready mode while the signal from another user is not even mentioned.

11. Claim 26 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, claim 26 requires either the name or

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picture of the authorized user to be displayed on an indicator of the identification unit.

The specification offers no support for said requirements and is therefore deemed new matter.

12. Claim 20 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, claim 20 requires the providing of a "received signal" upon receipt of a power signal and an activation code. The original specification does not disclose any received signal that is generated as a result of a receipt of the power signal and an activation code. This "received signal" suggests a combination and subsequent monitoring of both the power signal and activation code. However, as discussed above, only the power signal is monitored to keep the weapon in the active state.

13. Claim 20 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 20 makes reference to the maintaining of the weapon even if there are different frequencies between the received signal (the power signal + activation code?) and the power signal.

14. Claim 27 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 27 require the method of claim 20 to be free from the step of sending any type of signal from the module attached to the weapon to the identification unit. While the applicant is allowed to use negative limitations in claims, any negative limitation or exclusionary proviso must have basis in the original disclosure. The Examiner can find no reference in the specification in which a this method step is expressly excluded as claimed.

15. Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, claim 21 requires a device that detects a pattern of blood vessels on a wearer's wrist. However, the specification has not described what device performs this function or how and in what manner blood vessel detection is carried out.

16. Claims 7-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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17. Claim 7 recites the limitation "the signal" in lines 10, 15-16, 18 and 20. There is insufficient antecedent basis for this limitation in the claim since it is not clear whether the applicant is referring to the activation signal or the continuous signal.

18. Claim 7 recites, "presence/absence". It is unclear whether the slash means "and" or "or".

19. Claim 7 recites the limitation "the frequency" in 21. There is insufficient antecedent basis for this limitation in the claim.

20. Claim 8 recites the limitation "a stored identification code" in line 8. There is insufficient antecedent basis for this limitation in the claim because applicant has not recited the step or storing an identification code.

21. Claim 20 recites the limitation "the signal" in lines 20-21. There is insufficient antecedent basis for this limitation in the claim.

22. Claim 20 recites the limitation "the detected frequency" and "the frequency" in lines 22 and 23. There is insufficient antecedent basis for this limitation in the claim because no frequency is positively recited as being detected (e.g. "after step y, detecting a frequency..").

23. Claim 20 recites the limitation "the identification device" in line 10. There is insufficient antecedent basis for this limitation in the claim.

24. Claim 20 requires transmission of an activation code signal and a subsequent placing of the weapon in the active state "upon receipt of the activation code with the activation code signal". The claim goes on to require "maintaining the weapon in the active state" even if "the activation code signal is not received". However, this appears

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to contradict the previously recited step of receiving the coded signal. This, in addition to other rejections under 35 USC 112 (1) and (2), make it unclear as to what applicant is claiming as the invention.

25. Claim 28 recites the limitation "the activation code" in line 22. There is insufficient antecedent basis for this limitation in the claim. Any previous mention of an "activation code" is in reference to an activation code signal.

26. The above may not be an exhaustive list of violations under 35 USC 112 (1 or 2). It is the applicant's responsibility to review the claims for any other violations as discussed above. Any further violations discovered by the Examiner will not be deemed a "new" rejection.

Claim Rejections - 35 USC § 102

27. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

28. **The following rejections have been applied as the claims can best be understood in view of the objections/rejections cited above.**

29. Claims 7-11, 13 and 14, 16, 17, 18, 20, 22 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 9804880 issued to Reiner (equivalent U.S. Patent 6510642 issued to Reiner will be used in the rejection). Reiner discloses a method of controlling the use of a weapon 4.

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30. With respect to claim 7, Reiner discloses transmitting from an ID unit 19 (unit 19 is a watch that is separate from the weapon as shown in Figs. 1 and 4) a signal that includes an activation code 30 (col. 10, ll. 1-4) and a continuous signal (ultrasonic signal sent by distance meters 37 as discussed in Fig. 2 and col. 11, ll. 33-52); the weapon 4 has a transmission/receiving unit 18 that receives via an aerial 31 the ID code 30 sent by the ID unit 19 via aerial 31 (Fig. 2); the gun 4 receiver 18 upon receipt of the correct ID code 30 places the weapon in the active state (col. 10, line 5 to col. 11, line 3); after the weapon is in the active state the distance meters continue to measure the ultrasonic signals sent to the weapon; if a pre-determined distance is exceeded, the weapon will not activate release element 15 (col. 11, ll. 4-53).

31. With respect to claim 8, refer to col. 10, ll. 5-14.

32. With respect to claims 9 and 10, refer to col. 18, ll. 50-55.

33. With respect to claim 11, refer to col. 27, ll. 30-34, disclosing a sensor in the form of an optical light barrier.

34. With respect to claims 13 and 14, refer to col. 9, ll. 32-37, which disclose the capability of the device to use radio signals.

35. With respect to claim 16, Reiner discloses a gun having "a transmission **and/or** receiving unit 18". Meaning, either one or both can be present.

36. With respect to claim 17, the continuous signal is not disclosed as being coded. In any event, Reiner provides for both coded and uncoded signals (col. 10, ll. 56-62).

37. With respect to claim 18, Reiner discloses that the ID devices are capable of being provided with control information. (Col. 15, ll. 30-34).

38. With respect to claim 20, refer to Fig. 2 and 4 and the rejection of claim 7.

39. With respect to claim 22, Reiner discloses the use of radio signals (col. 2, ll. 51-56 and col. 9, ll. 32-37).

Claim Rejections - 35 USC § 103

40. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

41. Claims 12, 24 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiner in view of WO 01/18332 issued to Funfgelder. Reiner discloses a method of controlling the use of a weapon as described above. However, Reiner does not disclose the wristband features of claims 12, 24 and 28. Funfgelder discloses such features.

Specifically, Funfgelder discloses a bracelet similar to a watch that has a continuous sensor wire with contact surfaces in the clasp of the band. If the band is cut or the clasp is opened,

then a release previously issued by the sensor is reset. The legitimate owner of the weapon can deactivate it at any time by opening the clasp of the wristband. At the time of the invention, one of ordinary skill in the art would have found it obvious to provide the weapon control system of Reiner with the wristwatch disabling features of Funfgelder. The suggestion/motivation for doing so would have been to allow the user of the firearm to disable the weapon in the event that an unauthorized individual gained access to it in the presence of the user.

42. Claims 15, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiner in view of the applicant's admissions in the specification and applicable case

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law. Reiner discloses the claimed invention as discussed above except for the limitations requiring infrared (claim 15) and ultrasonic signals (claim 15). The applicant expressly admits that such signals are known in the art ([0004]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Reiner with the various signals claimed and admitted by applicant to be prior art since the Examiner takes Office Notice of the equivalence of radio signals, infrared and ultrasonic signals for their use in the firearm security art and the selection of any one of these known equivalents to communicate would be within the level of ordinary skill in the art.

43. Claims 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiner in view of US 6260300 issued to Klebes. Reiner discloses a security system as discussed above with the exception of the wake up circuit. Klebes discloses such a circuit (col. 3, ll. 61-65). At the time of the invention, one having ordinary skill in the art would find it obvious to provide the security system of Reiner with the wake up circuit of Klebes. The suggestion/motivation for doing so would have been to provide the capability to limit power consumption when the device is not in use.

Response to Arguments


44. Applicant's arguments are directed to subject matter added to an amended claim or as part of a new claim. All additional limitations added by the applicant have been addressed in the body of the rejection.

Conclusion

45. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

46. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (571) 272-6874 between the hours of 7:00 a.m. to 3:30 p.m., M-F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (571) 272-6875.


MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER

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